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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,044	10/17/2003	Clemens Rickert	09202-US	9199

7590 03/08/2005

Kevin J. Moriarty
Patent Department
DEERE & COMPANY
One John Deere Place
Moline, IL 61265-8098

EXAMINER


TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No. 10/688,044	Applicant(s) RICKERT, CLEMENS	
	Examiner Alicia M Torres	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 7-9, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mortier et al., hereafter Mortier, in view of Brukner.

Mortier discloses an adjusting device (41) for a movable element (12) of a harvesting attachment, the adjusting device (41) is provided with an adjusting drive (18) for moving the movable element (12) between an operating position and a transport position in which the movable element (12) is raised relative to the operating position, characterized by the fact that the movable element (12) is biased in the direction of the transport position by a spring (35) and a second spring (43) biases the movable element toward another position from the transport position and wherein the adjusting drive (18) includes a housing (32), as per claim 1; and

wherein the movable element (12) can be moved from the operating position (see figure 2) into the transport position (see figure 3) via an intermediate position and by the fact that the second spring (35) biases the movable element (12) toward the intermediate position from the transport position, as per claim 2; and

wherein the movable element (12) is pivoted, as per claim 7; and

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wherein the movable element (12) comprises a side section that is articulated to a central section of the harvesting attachment in a pivoted fashion (see Figures 6 and 7), as per claims 8 and 9; and

wherein the adjusting drive (18) is a double acting hydraulic cylinder, as per claims 11 and 14.

However, Mortier fails to disclose wherein the first and second springs are oppositely biased within the housing.

Brukner discloses a first (70) and second (82) spring biased against each other wherein the first (70) and second (82) springs are oppositely biased within the housing (62).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the housing of Brukner on the device of Mortier in order to contain fluid power.

3. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mortier and Brukner as applied to claim 2 above, and further in view of Richardson et al., hereafter Richardson.

Mortier further discloses wherein the movable element (12) is rigidly connected to the harvesting attachment in the operating position, as per claim 4; and

wherein the movable element (12) is pivoted, as per claim 5.

However, Mortier and Brukner fail to disclose wherein the intermediate position represents an equilibrium position of the movable element, as per claim 3.

Richardson discloses a similar device wherein the intermediate position represents an equilibrium position of the movable element (12), as per claim 3.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to the raised intermediate position of Richardson on the device of Mortier and Brukner in order to obtain a 180 degree turn.

Response to Arguments

4. Applicant's arguments with respect to claims 1-9, 11 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

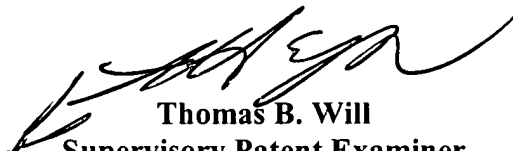
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
February 23, 2005